IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7737 of 1999

For Approval and Signature:

HON'BLE MR.JUSTICE R.P.DHOLAKIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

ABBAS MULLA FAZALE ABBAS

Versus

COMPETENT AUTHORITY AND ADMINISTRATOR

Appearance:

MR RS SANJANWALA for Petitioner No. 1

MR DN PATEL for Respondent No. 1

MR ANANT S DAVE for Respondent No. 1

MR SS PATEL, AGP for Respondent No. 2

RULE SERVED for Respondent Nos. 3,5

DS AFF.NOT FILED (R) for Respondent No. 4

CORAM : HON'BLE MR.JUSTICE R.P.DHOLAKIA

Date of decision: 19/12/2003

ORAL JUDGEMENT

Heard Mr.R.S.Sanjanwala, learned Senior Counsel for the petitioner, Mr.D.N.Patel, learned Senior Central

Govt. Standing Counsel for the respondent No.1, Mr.S.S.Patel, learned Addl. Govt. Pleader for the respondent No.2.

2. By filing this petition, the petitioner has challenged the detention order dated 28th April, 1975 passed against the detenu. The petitioner has also challenged the notice under Section 6 of Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976 (`SAFEMA' for short) issued upon the petitioner and the order of forfeiture passed under Section 7 of the SAFEMA dated 25th June, 1999. It is not in dispute that the order at Annexure `B' passed by the competent authority is challenged before the Tribunal. In that view of the matter, Mr.Sanjanwala submits that in view of the peculiar facts of this case, he wants to withdraw the Special Civil Application awaiting the order of the Tribunal. He, therefore, submitted that in case the order of the Tribunal is against the petitioner, he may be permitted to challenge the same by filing substantive Special Civil Application. He is making the aforesaid submission after getting necessary instructions from his client who according to Mr.Sanjanwala is present in the Court. Mr.Sanjanwala, however, submitted that in case the ultimate order of the Tribunal is against the petitioner, the department may be restrained from taking any further action on the basis of such order for a period of four weeks so that the petitioner can take appropriate remedy.

3. Considering the facts and circumstances of the case and considering the request of Mr.Sanjanwala, the petitioner is permitted to withdraw this Special Civil Application as he has already moved the Tribunal by way of an appeal. It is clarified that in case the decision of the Tribunal is against the petitioner, it will be open for him to challenge the said decision in accordance with law by filing appropriate proceedings on all available grounds including the grounds taken in the present Special Civil Application.

4. This petition is accordingly disposed of as withdrawn. Rule is discharged. Ad-interim relief granted earlier stands vacated forthwith.

(R.P.DHOLAKIA,J.)
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